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PATENT

Attorney Docket No. 01222.0034-01000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue Application of:)
David A. Russo et al.)
Serial No.: 09/287,664) Group Art Unit: 1755
Filed: April 7, 1999) Examiner: D. Brunsman
For: COATING COMPOSITION)
FOR GLASS)

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

SUPPLEMENTAL REISSUE DECLARATION UNDER 37 C.F.R. 1.475

We, David A. Russo, Ryan R. Dirkx, and Glenn P. Florczak, the named inventors of the above-identified patent, declare and state as follows:

1. We are the named inventors of U.S. Patent No. 5,401,305 issued March 28, 1995, ("the '305 patent") which relates to a gaseous composition.
2. During the Summer of 1995, we were initially informed that the claims in the '305 patent did not claim the entire scope of our invention. In other words, we have been informed and agree that the '305 patent is partially inoperative because the claims in the '305 patent claim less than what is disclosed in the specification thereof.
3. In particular, the claims of the '305 patent relate to a gaseous composition adapted to deposit at least a first layer of tin oxide and silicon oxide onto glass at a rate of deposition greater than about 350 Å/second. However, the specification of the '305 patent, as well as the specification of the application leading to the '305 patent, disclose

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FINNEGAN, HENDERSON,
FARABOW, GARRETT,
& DUNNER, L. L. P.
1300 I STREET, N. W.
WASHINGTON, DC 20005
202-408-4000

a broader gaseous composition. As reflected in the claims of the application for the '305 patent and the amendments in the parent application of October 18, 1995, November 27, 1996, September 11, 1998, February 12, 1999, April 16, 1999, and in the present application of April 7, 1999 we believe we are entitled to claims covering a broader invention which relate to a gaseous mixture comprising at least one metal oxide precursor an accelerant, a film comprising at least one metal oxide and an accelerant, a layer comprising a mixture of at least one metal oxide and an accelerant deposited on a substrate, a process of forming an oxide composition by oxidizing said mixture, and a product produced by such process. The subject matter of these claims was not truly pursued in the prosecution of the application leading to the '305 patent, and we believe this was based on a misunderstanding or error of the patent counsel for the assignee.

4. This misunderstanding or error, on information and belief, arose without any deceptive intention on our part, and unfortunately, was not recognized by us until pointed out by patent counsel, namely, Stanley A. Marcus.

5. We acknowledge our duty to disclose to the U.S. Patent and Trademark Office all information known to us which may be material to the patentability of the '305 patent.

6. We have reviewed and understand the contents of the original and reissue specifications, including the claims, as amended by any amendment, including the amendments in the parent application of October 18, 1995, November 27, 1996, September 11, 1998, February 12, 1999 and April 6, 1999, and April 7, 1999 in the present application.

LAW OFFICES

FINNEGAN, HENDERSON,
FARABOW, GARRETT,
& DUNNER, L.L.P.
1300 I STREET, N. W.
WASHINGTON, DC 20005
202-406-4000

7. We believe we are the joint inventors of the original '305 patent, as well as the claims set forth in the foregoing amendments for which we seek a reissue patent.

8. The reissue claims differ inter alia from those of the '305 patent in that the claims of the '305 patent only relate to a gaseous composition comprising a precursor of tin oxide, a precursor of silicon oxide of formula $R_mO_nSi_p$ and an accelerant selected from the group consisting of organic phosphites, organic borates, and water, and mixtures thereof, and a source of oxygen. The '305 patent claims do not specifically mention a mixture comprising at least one metal oxide and an accelerant, a coated layer comprising the mixture containing the at least one metal oxide and an accelerant, nor do they relate to a gaseous composition comprising at least one precursor of a metal oxide with an accelerant, as was specifically disclosed in the specification of the '305 patent, for instance, at column 4, lines 18-39, column 5, lines 20-45, column 5, lines 58-66, as well as the examples.

9. We hereby declare that all statements made herein of our own knowledge are true, and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

LAW OFFICES

FINNEGAN, HENDERSON,
FARABOW, GARRETT,
& DUNNER, L.L.P.
1300 I STREET, N. W.
WASHINGTON, DC 20005
202-408-4000

Date: June 8, 2000

David A. Russo

David A. Russo

Residence:

Norristown, Pennsylvania ✓

Country of Citizenship
United States of America ✓

P.O. Address:

22 Brenda Lane
Norristown, Pennsylvania 19403 ✓

Date: June 8, 2000

Ryan R. Dirx

Ryan R. Dirx

Residence:

Glenmoore, Pennsylvania

Country of Citizenship
United States of America ✓

P.O. Address:

2006 Turnberry Circle
Glenmoore, Pennsylvania 19343

Date: 6/8/00

Glenn P. Florczak

Glenn P. Florczak

GPF

Residence:

East Brunswick, New Jersey ✓

Country of Citizenship
United States of America ✓

P.O. Address:

2 Hilltop Boulevard
East Brunswick, New Jersey 08816 ✓

LAW OFFICES

FINNEGAN, HENDERSON,
FARABOW, GARRETT,
& DUNNER, L.L.P.
1300 I STREET, N. W.
WASHINGTON, DC 20005
202-408-4000